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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,259	03/10/2004	Kevin Ptasienski	7377-000009/US	5363
28997	7590	12/02/2004	EXAMINER	
HARNESS, DICKEY, & PIERCE, P.L.C				FASTOVSKY, LEONID M
7700 BONHOMME, STE 400				ART UNIT
ST. LOUIS, MO 63105				PAPER NUMBER
				3742

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/797,259	PTASIENSKI ET AL.	
	Examiner	Art Unit	
	Leonid M Fastovsky	3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 September 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-6,10,12-18 and 27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-6,10,12-18 and 27 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 10 March 2004 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
Paper No(s)/Mail Date <u>20040310</u>	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species in Fig. 3-7, claims 1-6, 10, 12-18 and 27 in the reply filed on 9/15/04 is acknowledged.

Specification

2. The abstract of the disclosure is objected to because it contains extraneous words such as "comprises " or "comprising". Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 10, 12, 17, 18 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Puerto (2003/0231415).

Puerto teaches a layer heater comprising at least one resistive layer 107 comprising a resistive circuit pattern 107, the resistive circuit pattern defining a length and a thickness, wherein the thickness varies along the length of the resistive circuit and

Puerto's resistive circuit inherently produce a variable watt density (page 2, [0029], [0030]).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-5 and 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Puerto in view of Juliano et al (5,973,296).

Puerto teaches substantially the claimed invention, but does not teach spacing, dielectric layer and protective layer. Juliano teaches substantially the claimed invention having a heater system (Fig. 6) comprising a film resistive element 86 with spacing (Fig. 6A), a dielectric layer 84 and protective layer 48. It would have been obvious to one having ordinary skill in the art to modify Puerto's invention to include a spacing, a dielectric layer and a protective layer as taught by Juliano in order to improve heating characteristics of the heater and also to protect the heating structure.

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Puerto in view of Miyata et al (6,448,538).

Puerto teaches substantially the claimed invention including a thin film 107, but does not teach a sol-gel heater and thermal spray. Miyata teaches a sol-gel heater (col. 10, lines 10-20) and thermal spray (col. 20, lines 36-44). It would have been obvious to one

having ordinary skill in the art to modify the invention of Puerto and include a sol-gel heater in order to protect the exposed edge fro the outside covering with a ceramic film as taught by Miyata (col. 10, lines 12-17), and also to make a thermally sprayed heater as conventional in the art as taught by Miyata (col. 20, lines 36-44).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Leonid M Fastovsky whose telephone number is 571-272-4778. The examiner can normally be reached on M-Th. 8.00 am -6.00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robin Evans can be reached on 571-272-4777. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Leonid M Fastovsky
Examiner
Art Unit 3742

lmf


ROBIN O. EVANS
PRIMARY EXAMINER
